

Testimony in opposition to HB 5054, HB 5597, and SB 429

Esteemed members of the Judiciary committee:

I am asking you to reject the aforementioned articles of proposed legislation. These bills are problematic in many ways, and there is no reasonable expectation that they will ever achieve their intended goal.

You have already heard that there are implications for the First, Second, Fourth, Fifth, Seventh, and Eighth Amendments to the Constitution of the United States, the State Constitution, and common law, so I'll not belabor the point.

The simple fact of the matter here is that the proposed legislation will not save even one life, and will inflict great harm upon peaceful citizens.

We are told that the risk of death in domestic disputes is increased massively when there are firearms present, but CT's own Family Violence Arrests Annual report for 2014 shows that just isn't so. Quite to the contrary, it shows that firearms were used in seven of 24 domestic violence-related murders, knives in eight of 24, and hands and feet in the remaining nine<sup>1</sup>. So to claim that the presence of firearms presents a unique risk is fallacious at best. Additionally, only one of those occurred while there was an active protective order, one after an order had expired, and the remaining 22 with no order whatsoever.

The Executive Director of Connecticut Against Gun Violence sent out a message to all his supporters last week urging his membership to support Senate Bill 429 requiring police officers to serve temporary restraining orders, and to oppose HB5597 which would initiate a Risk Warrant application if the person applying for a TRO indicates that the respondent may possess firearms on the basis that the applicant may not want to get the police involved. How does he expect to resolve the fundamental conflict present in his contradictory positions here?

It becomes clear that the underlying intent here is to make it easy to attack political enemies at little to no cost to the person filing the false TRO application. I can't see any other reason why they would want to avoid initiating an actual legal process against a potential attacker unless it was to avoid the likelihood of prosecution for falsely swearing testimony. What protection do peaceful citizens have against such malicious use of restraining orders?

And do not believe that it does not happen. A gentleman in my town endured such an abuse recently. His brother falsely alleged a threat of violence, and then falsely stated his mother's address as his residence instead of his own. This gentleman called his mother to find out what was going on, and in so doing unwittingly triggered the order. He was awoken at 1 AM by armed police beating on his door to arrest him. It took him over a year and many thousands of dollars in legal fees to straighten out, and he nearly lost his job. Oh, and the restraining order was vacated the next morning for being false, but he still had to deal with the aftermath.

Finally, there is a critical flaw in HB 5054 that makes it legally impossible for a person so served to comply with the demand to surrender their firearms. Since they are **immediately** prohibited from

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<sup>1</sup> <http://www.dpsdata.ct.gov/dps/ucr/ucr.aspx>

possessing firearms, how are they supposed to transport them to the police or a dealer without becoming an instant felon?

So what this legislation does, more than anything else, is create the situation of The Process is the Punishment, where the simple threat of false accusations leading to a loss of freedom, property, livelihood, and potentially life. This is not a situation that should EVER be encouraged by law.

Because the Kansas incident is being brought up as evidence of how dangerous the whole TRO service situation can get, I'd like to remind everyone that the shooter was already a prohibited person, being a serial felon. He wouldn't have been required to turn in his firearms because he could not be compelled to admit he even HAD them, because of the Fifth Amendment's prohibition about being forced to testify against oneself.

Finally, the horrific case from Oxford. Scott Jackson was not subject to a Temporary Restraining Order (having avoided service), and he acquired his firearm illegally in a state in which he was not a resident. Can you explain what these proposals would have done?

Sure, once the police caught up with Scott and found him in possession of a gun he'd have been arrested.

And Lori Jackson would still be just as dead.

In closing, if any of you still find that you want to support these proposals, do us all a favor: leave this room, go clean your personal effects out of your office, and resign.

Brian Corbino